



## The CommLaw Group

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February 27, 2009

### VIA ECFS TRANSMISSION

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 – 12<sup>th</sup> Street, S.W.  
Suite TW-A325  
Washington, D.C. 20554

Re: *inContact, Inc.*  
*Annual 47 C.F.R. §64.2009(e) Certification*  
*EB Docket No. 06-36*  
*REVISED FILING*

Dear Ms. Dortch:

inContact, Inc. hereby files a revised CPNI Certification filing in Docket No. 06-36. This updated filing includes a revision to compliance dates and minor stylistic changes. The changes in this CPNI Certification supersede all previous CPNI Certification filings made by the Company.

To the extent you have any questions concerning this filing, please contact the undersigned.

Respectfully submitted,

/s/

Jonathan S. Marashlian  
Attorney for inContact, Inc.

ANNUAL 47 C.F.R. §64.2009(E) CPNI CERTIFICATION FOR 2009

Date Filed: February 24, 2009

Name of Company Covered by this Certification: inContact, Inc.

499 Filer ID: 818114

Name of Signatory: Paul Jarman

Title of Signatory: CEO

I, Paul Jarman, certify that I am an officer of the company named above and acting as an agent of the company, that I have personal knowledge that the company has established operating procedures that are adequate to ensure compliance with the Commission's CPNI rules. *See* 47 C.F.R. §64.2001 *et seq.*

Attached to this certification is an accompanying statement explaining how the company's procedures ensured that the company complies with the requirements set forth in section 64.2001 *et seq.*, of the Commission's rules.

The company has not taken any actions (proceedings instituted or petitions filed by a company at either state commissions, the court system, or at the Commission) against data brokers in the past year. The company has no information to report with respect to the processes pretexters are using to attempt to access CPNI.

The company has not received any customer complaints in the past year concerning the unauthorized use of CPNI.

Signed: \_\_\_\_\_

Paul Jarman

## STATEMENT REGARDING inContact, INC.

### CUSTOMER PROPRIETARY NETWORK INFORMATION (CPNI) OPERATING PROCEDURES

March 1, 2009

inContact, Inc. ("inContact" or "Company") provides this statement pursuant to 47 C.F.R. § 64.2009(e) to explain how inContact's operating procedures ensured compliance with the federal Communications Commission's ("Commission") CPNI rules during 2008.

inContact uses CPNI, on occasion, to lawfully market services to its customers. inContact notifies its customers of their right to restrict use of, disclosure, and access to their CPNI consistent with the Commission's regulations, through opt-out notifications. inContact maintains records establishing that notice was provided and whether or not the customer's approval was obtained. inContact maintains a record of all sales and marketing campaigns that use CPNI.

Prior to marketing to existing customers, inContact filters accounts to exclude customers opting-out of marketing activity. Marketing campaigns to educate customers on events related to their existing services or to make them aware of new services are done under the supervision of senior staff who specify the customer lists to be used and how the customers on the list are to be approached. All marketing and sales contact campaigns are measured and tracked and the records are maintained within inContact for a minimum of one year.

Consistent with the Commission's rules, inContact's policies also permit it to use, disclose, or permit access to CPNI without customer approval for the purpose of:

- Providing or marketing service offerings among the categories of service (i.e., interconnected VoIP) to which the customer already subscribes without customer approval;
- Provisioning CPE and information service(s);
- Marketing services formerly known as adjunct-co-basic services, such as, but not limited to, speed dialing, computer-provided directory assistance, call monitoring, call tracing, call blocking, call return, repeat dialing, call tracking, call waiting, caller I.D., and call forwarding;
- Protecting the rights or property of that carrier, or to protect users of those services and other carriers from fraudulent, abusive, or unlawful use of, or subscription to, such services; and
- As otherwise permitted in Section 222 of the Communications Act of 1934, as amended.

It is the policy of inContact to train its personnel as to the circumstances under which CPNI may, and may not, be used or disclosed.

inContact has established a mandatory supervisory review process regarding compliance with CPNI rules for outbound marketing. Sales personnel must obtain supervisory approval of any proposed Outbound marketing request for customer approval.

In compliance with Section 64.2009(e), inContact prepares a "compliance certificate" signed by an officer on an annual basis stating that the officer has personal knowledge that inContact has established operating procedures that are adequate to ensure compliance with 47 C.F.R. § 64.2009(c). The certificate is to be accompanied by this statement and will be filed in EB Docket No. 06-36 annually on March 1, for data pertaining to the previous calendar year. This filing will include an explanation of any actions taken against data brokers and a summary of all customer complaints received in the past year concerning the unauthorized release of CPNI.

It is inContact's policy to provide written notice to the FCC within five business days of any instance where the opt-out mechanisms do not work properly, such that a consumer's inability to opt-out is more than an anomaly.

• **Record Retention for Marketing Campaigns**

inContact maintains records of all sales and marketing campaigns that use CPNI, including: (i) a description of each campaign, (ii) the specific CPNI that was used in the campaign, and (iii) what products and services were offered as a part of the campaign. inContact maintains such records for at least one year.

• **Safeguarding CPNI**

inContact takes the privacy and security of CPNI seriously. inContact's internal policies and procedures are designed to ensure compliance with the Commission's CPNI rules.

• **Privacy and Security**

inContact has implemented controls to ensure compliance with the FCC's CPNI rules. For example, inContact has business team managers whose responsibilities focus on, along other things, CPNI protection and compliance.

inContact's policies ensure that any CPNI released to sales agents will be specifically protected from disclosure through confidentiality provisions. All inContact agents will be required to protect CPNI in their possession from unauthorized disclosure and must advise their employees, sub-agents, and similar individuals of their obligation to protect CPNI.

• **Employee Training Program**

inContact provides training to educate and train affected personnel regarding the confidentiality of customer information, including authorized and unauthorized uses of CPNI. As part of their

training, affected employees are provided with a "CPNI Compliance Manual" which explains CPNI and FCC rules regarding the proper use and safeguarding of CPNI. Affected employees must acknowledge that they have read and understand the training document.

- **Employee Discipline**

inContact has a disciplinary process in place to address noncompliance with Company's policies, including policies concerning employee use of, access to, and disclosure of CPNI. An employee found to have violated inContact's policies, including policies relating to use of, access to, and disclosure of CPNI, is subject to disciplinary action.

- **Third Party Use of CPNI**

Prior to allowing access to customers' individually identifiable CPNI to joint venturers or independent contractors, to safeguard CPNI inContact requires all such third parties to enter into a confidentiality agreement that ensure compliance with this Policy Statement and inContact shall also obtain opt-in consent for a customer prior to disclosing the information to such third parties. In addition, inContact requires all outside agents to acknowledge and certify that they may only use CPNI for the purpose for which that information has been provided.

inContact requires express written authorization from the customer prior to dispensing CPNI to new carriers, except as otherwise required by law.

inContact does not market or sell CPNI information to any third party.

- **Law Enforcement Notification of Unauthorized Disclosure**

If an unauthorized disclosure of CPNI occurs, inContact shall provide notification of the breach within seven (7) days to the United States Secret Service ("USSS") and the Federal Bureau of Investigation ("FBI").

inContact shall wait an additional seven (7) days from its government notice prior to notifying the affected customers of the breach.

Notwithstanding the above, inContact shall not wait the additional seven (7) days to notify its customers if the Company determines there is an immediate risk of irreparable harm to the customers. inContact shall cooperate with the relevant law enforcement agency to minimize any adverse effects of such customer notification.

inContact shall maintain records of discovered breaches for a period of at least two (2) years.